

OLL 85-1535
30 May 1985

MEMORANDUM FOR: DCI
DDCI
EXDIR
DDO



C/SE/DDO
AA/OSD/OGC

FROM:



Chief, Legislation Division
Office of Legislative Liaison

SUBJECT: HPSCI Hearings on Defector Citizenship

1. The House Permanent Select Committee on Intelligence (HPSCI) has informally advised this office that HPSCI's Subcommittee on Legislation plans to hold hearings (closed) on defector citizenship. The hearing date is tentatively set for Tuesday, June 25, 1985. We expect that a letter of invitation from Representative Beilenson, Chairman of the Subcommittee, to the Director will be issued shortly.

2. Tentatively invited to testify, in addition to the Agency, are the Department of Justice and Representatives Romano Mazzoli and Daniel Lungren, Chairman and Ranking Minority Member, respectively, of the House Judiciary Committee's Subcommittee on Immigration. That Subcommittee has jurisdiction over changes in the law governing naturalization.

3. The purpose of the hearing will be threefold. First, it will give the Subcommittee Members (most of whom are new to HPSCI) a brief overview of defectors, their role in intelligence gathering, and why their contribution merits special consideration. Second, the hearing will serve to explain why these individuals merit in particular the expedited granting of citizenship. Third, the hearing obviously will build support for and defuse opposition to defector citizenship legislation. At this point the hearing will not focus on any specific legislative proposal (i.e. the Stump Bill, the Agency/ Administration proposal, or the version included by the Senate

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Select Committee on Intelligence in its version of the Intelligence Authorization Bill for Fiscal Year 1986).

4. Scheduling of the hearing is a positive development which will allow the Agency to make its case in support of the legislation. The record the Agency is able to make will hopefully permit favorable action to be taken on the proposal by HPSCI: at the very least, an agreement not to oppose inclusion by the SSCI of the provision in the conference version of the Intelligence Authorization Bill. HPSCI support also will be of assistance in removing the present opposition to the proposal by the House Judiciary Committee.

5. HPSCI staff has informally suggested that the Agency's principal witness be the Deputy Director for Operations, supported by [redacted] C/SE/DDO. While we believe that this is a good suggestion, we invite your comments on who should appear for the Agency at the June 25th hearing. In the interim, we are preparing a first draft of testimony and a series of likely questions and suggested answers. When the draft testimony and questions and answers are completed, we will circulate them for comment. Please feel free, however, at this stage to forward any comments or suggestions that you might have [redacted]

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85-1706

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MAY 29 1985

MEMORANDUM FOR: Chief, Legislation Division
Office of Legislative Liaison

FROM: Robert W. Magee
Director of Personnel

SUBJECT: House Permanent Select Committee on Intelligence (HPSCI)
Draft Authorization Bill and Accompanying Report

REFERENCE: Your memorandum for multiple addressees, same subject,
OLL 85-1461, dated 16 May 1985, with attachments

1. This is in response to your request in Reference for our comments concerning H.R. 2419, the proposed Intelligence Authorization Act for Fiscal Year 1986, as reported out by the HPSCI on 15 May 1985, and the related committee report. You have advised that informal comments on a previous, largely identical version of the HPSCI bill were provided to the HPSCI staff by letter dated 13 May 1985 from the Director of your Office (attached as Tab C to Reference); and that none of those comments need be repeated unless we disagree with or wish to reinforce or embellish any of them. We know you realize that we, like you, are disappointed at HPSCI's deletion from the Administration bill originally sent forward of the new or enhanced personnel benefits and personnel management authorities we had proposed (e.g., pay increases for the DCI and DDCI; extra retirement credit for service at unhealthful overseas post; authority to terminate, suspend, or refuse to hire any current or former drug or alcohol abuser, and to deny to or remove from any such individual access to classified information). However, it is our understanding that the Agency response to the HPSCI staff request for comments on the bill as it now emerges from mark-up is not the appropriate forum (nor a timely one) to contest still further the disemboweling of the bill we had initially proposed and transmitted. It is our understanding that an effort to put some of the "entrails" back into the bill is proceeding on a separate track; and accordingly, we will confine our remarks to what appears in H.R. 2419 as reported out on 15 May.

2. We agree generally with the comments made in Mr. Briggs' letter of 13 May to the HPSCI Staff Director, but have some concern about the Agency comment regarding the one provision directly involving OP equities which HPSCI revised during mark-up. The Intelligence Authorization bill as transmitted contained a provision stating in pertinent part:

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PERSONNEL CEILING ADJUSTMENTS

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for the fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element.

The HPSCI mark-up revises this provision by adding the language underscored, as follows:

PERSONNEL CEILING ADJUSTMENTS

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for the fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element (or offices, agencies or subelements thereof) of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element.

The comment in D/OLL's 13 May letter to the HPSCI concerning this change was as follows:

There appears to be a critical change in the language from past legislation that is harmful to Agency administration concerning personnel ceilings. In the ebb and flow of personnel administration of a large organization required to meet emergency needs both nationally and internationally, besides the necessity of lengthy background investigations necessitating months to complete before candidates can be hired, the Agency needs flexibility to make temporary personnel shifts internally. As long as the Agency stays within its overall strength limits, we believe that the language of section 104 imposes an unrealistic and perhaps dangerous limitation on our ability to function. So as to alleviate this problem, we suggest that the parenthetical phrase be struck - (or offices, agencies or subelements thereof) - and that the word "program" be inserted between the words "any" and "element."

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3. While we applaud and endorse the first three sentences of that comment, we do not understand the rationale for inserting the word "program" before "element." We would prefer that the language of the "except" clause in this provision simply and without modification or qualification read, as have the equivalent clauses in prior years' Authorization Acts, as follows: "...except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized ...for such element." Under the rule of statutory construction that Congress does not include superfluous or meaningless provisions in the laws, the inclusion of the phrase "program element" presumably would be intended to limit in some way the greater flexibility which would exist if only the word "element" were used. All prior Authorization Acts containing the 2%-above-ceiling authority have used the word "element" without any modifiers. We believe that should continue to be the case.



Robert W. Magee /

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